

SECOND COMMITTEE

Formulation of main trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. Where only one formula appears this does not necessarily imply that there are no other opinions concerning these questions or that all delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the methods of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this paper the Bureau considers it necessary to stipulate that for purely methodological reasons the position of delegations for whom the acceptance of an economic zone would entail the elimination of the legal concept of the continental shelf is not reflected as a trend in this paper. For those delegations the concept of the continental shelf will be subsumed under the concept of the economic zone and any portion of the continental shelf which extends beyond the economic zone shall fall under the international area.

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Item 5: Continental shelf

PROVISION I

Definition

Formula A

The term continental shelf means:

(a) The sea-bed and subsoil of submarine areas adjacent to the coast but outside the area of the territorial sea, to the outer limits of the continental rise bordering on the ocean basin or abyssal floor;

(b) ...

Formula B

The continental shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles.

Formula C

[The continental shelf] comprises the sea-bed and subsoil of the submarine areas adjacent to the territory of the State but outside the area of the territorial sea, up to the outer lower edge of the continental margin which adjoins the abyssal plains area and, when that edge is at a distance of less than 200 miles from the coast, up to this last distance.

5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States

PROVISION II

Formula A

The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

Formula B

The sovereignty of a coastal State extends to its continental shelf.

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PROVISION III

The rights referred to in Provision ... are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

PROVISION IV

The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

PROVISION V

Formula A

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

Formula B

The delineation of the course for laying submarine cables and pipelines on the continental shelf by a foreign State is subject to the consent of the coastal State.

Formula C

Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention of pollution, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on its continental shelf.

Notwithstanding the provisions of paragraph 1 the coastal State shall be informed and its consent obtained before a pipeline is laid on its continental shelf. The coastal State shall not normally withhold its consent if the request is submitted or supported by another State.

When laying submarine cables and pipelines due regard shall be paid to cables and pipelines already in position on the sea-bed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

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PROVISION VI

Formula A

The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

Formula B

The exercise of the coastal State's rights over the continental shelf shall not result in any unjustifiable interference with the freedom of navigation in the superjacent waters and of overflight in the superjacent air space, nor shall it impede the use of recognized lanes essential to international navigation.

PROVISION VII

Formula A

The coastal State is entitled to construct, maintain or operate on or over the continental shelf installations and other devices necessary for the exercise of its rights over the same, to establish safety zones around such devices and installations, and to take in those zones measures necessary for their protection. Ships of all nationalities shall respect these safety zones, which may extend up to ... around the installations or devices.

Formula B

The coastal State shall have the exclusive right to authorize and regulate on the continental shelf the construction, operation and use of off-shore installations for the purpose of exploration or exploitation of natural resources or for other economic purposes.

The coastal State may, where necessary establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. Ships of all nationalities must respect these safety zones.

The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the Inter-Governmental Maritime Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional standards, safety zones around installations for the exploration and exploitation of non-renewable resources

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of the sea-bed and subsoil may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

States shall ensure compliance by vessels of their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

Installations and safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

PROVISION VIII

Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

PROVISION IX

Formula A

Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

Formula B

For the purpose of this section, the term "installations" refers to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

PROVISION X

The establishment of any other type of installation by third States or their nationals is subject to the permission of the coastal State.

PROVISION XI

Formula A

The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

Formula B

The coastal State shall, with respect to the installations and sea-bed activities subject to its jurisdiction take appropriate measures for the protection of the marine

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environment from pollution, and ensure compliance with appropriate minimum international requirements established for this purpose.

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for purposes other than exploration and exploitation.

PROVISION XII

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

PROVISION XIII

Formula A

1. A coastal State shall make contributions to the international authority out of the revenues derived from exploitation of the non-living resources of its ... zone in accordance with the following paragraph.
2. The rate of contribution shall be ... per cent of the revenues from exploitation carried out within 40 miles or 200 metres isobath of the ... zone, whichever limit the coastal State may choose to adopt, and ... per cent of the revenues from exploitation carried out beyond 40 miles or 200 metres isobath within the ... zone.
3. The international authority shall distribute these contributions on the basis of equitable sharing criteria.

Formula B

The coastal State in the exercise of its rights with respect to the non-renewable natural resources of the continental shelf:

(a) Shall comply with legal arrangements which it has entered into with other contracting States, their instrumentalities, or their nationals in respect to the exploration or exploitation of such resources; shall not take property of such States, instrumentalities or nationals except for a public purpose on a non-discriminatory basis and with adequate provision at the time of taking for prompt payment of just compensation in an effectively realizable form; and

(b) Shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea or the 200-metre isobath, whichever is further seaward (insert formula), to be used, as specified in article ..., for international community purposes, particularly for the benefit of developing countries.

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5.2 Outer limit of the continental shelf: applicable criteria

PROVISION XIV

Formula A (Same as Formula A in Provision I)

Formula B (Same as Formula B in Provision I)

Formula C (Same as Formula C in Provision I)

Formula D

... the outer limit of the continental shelf may be established by the coastal State within the ... metre isobath; in areas where the ... metre isobath is situated at a distance less than ... nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding ... nautical miles.

Formula E

By virtue of the principle that the continental shelf is the natural prolongation of the continental territory, a coastal State may reasonably define, according to its specific geographical conditions, the limits of the continental shelf under its exclusive jurisdiction beyond its territorial sea or economic zone. The maximum limits of such continental shelf may be determined among States through consultations.

Formula F

1. The outer limit of the continental shelf may be established by the coastal State within the 500-metre isobath.
2. In areas where the 500-metre isobath referred to in paragraph 1 hereof is situated at a distance less than 200 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 200 nautical miles.
3. In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in paragraph 2 hereof.

5.3 Questions of the delimitation between States: various aspects involved

PROVISION XV

Formula A

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf

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appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this provision should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Formula B

1. Where the coasts of two or more States are adjacent and/or opposite, the continental shelf areas appertaining to each State, shall be determined by agreement among them, in accordance with equitable principles.

2. In the course of negotiations, the States shall take into account all the relevant factors, ...

3. The States shall make use of any of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them, in case any of the parties refuses to enter into or continue negotiations or in order to resolve differences which may arise during such negotiations.

4. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimitation based on agreement.

Formula C

1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the continental shelf boundaries shall be determined by agreement among themselves.

2. Failing such agreement, no State is entitled to extend its sovereignty over the continental shelf beyond the median line every point of which is equidistant from the nearest points of the baselines, ... from which the breadth of the continental shelf of each of the two States is measured.

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Formula D

1. The delimitation of the continental shelf or the exclusive economic zone between adjacent and/or opposite States must be done by agreement between them, in accordance with an equitable dividing line, the median or equidistance line not being necessarily the only method of delimitation.
2. For this purpose, special account should be taken of geological and geomorphological criteria, as well as of all the special circumstances, including the existence of islands or islets in the area to be delimited.

PROVISION XVI

Where there is an agreement between the States concerned, questions relating to the delimitation of their (economic zones - patrimonial seas) and their sea-bed areas shall be determined in accordance with the provisions of that agreement.

PROVISION XVII

No State shall by reason of this Convention claim or exercise rights over the natural resources of any area of the sea-bed and subsoil over which another State had under international law immediately before the coming into force of this Convention sovereign rights for the purpose of exploring it or exploiting its natural resources.

5.4 Natural resources of the continental shelf

PROVISION XVIII

The natural resources referred to in these provisions consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

5.5 Régime for waters superjacent to the continental shelf

PROVISION XIX

Formula A

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

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Formula B

The rights of the coastal State over the continental shelf do not affect the legal régime of the superjacent waters or air space.

The normal navigation and overflight on and in the air space above the superjacent waters of the continental shelf by ships and aircraft of all States shall not be prejudiced.

5.6 Scientific research

PROVISION XX

Formula A

The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

Formula B

The coastal State may authorize scientific research activities on the continental shelf; it is entitled to participate in them and to receive the results thereof. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.
